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. . . The 166th meeting of the CIA RETIREMENT BOARD convened at 2:00 p.m. on Thursday, 7 October 1971, with the following present:

Mr. Harry B. Fisher, Chairman

25X1A9a



MR. FISHER: Well, I did ask the Office of Security to send down a gentleman -- Jim has come down to talk to the point of the 60 versus 62. I was rather impressed with the strong wording that Mr. Wattles used in saying that we understand that he has had ample opportunity to know of and be briefed on the age limitation of the CIARD System. (Justifiably he's being included post-60 in CIARDS.)[?] Here again I had planned really to take a look at the case first and then address ourselves to that. Can you address yourself to that point?

25X1A9a

[REDACTED] was invited to answer questions on one phase of the problem regarding [REDACTED]

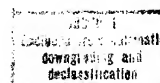
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25X1A9a

[REDACTED] I can address to the point that he is aware of the fact that 60 is the age limit on the CIARDS, but whether he was aware of it before I told him I don't know. He came down in August and I talked with him and generally I just in passing said, "Well, I think, Brian, you are doing better than I'm doing because I'm going to have to retire at 60 because that's the age limit of CIARDS, and you have the benefit of an extra two years." Since he showed no surprise that this was news to him I assume that he knew that.

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[REDACTED] Murray's got some input on that, Harry.

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[REDACTED] It's in his file here. [REDACTED] was one of four people -- the Office of Security at that time said they were going to hold those four cases until the test case of [REDACTED] finally cleared the Board. Then [REDACTED] was approved in late 1966. Then in 1967, I think, they start to resurrect this. A memo says that [REDACTED] requested that his case not be processed -- [REDACTED] requested his case, in 1968, not be processed. The papers came down in November 1966 for these four people.

MR. FISHER: He was in the sense offered the opportunity to be considered and requested that he not be?

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[REDACTED] This is a pencil notation in the file which in November of 1968 it says, "Per [REDACTED] has talked with the Retirement people and decided to drop application for the time." This was in November of 1968. He had previously gone on record as ^{requesting} having to go ^{on} CIARDS and then as you indicated that four men from the [REDACTED] Office that were interested in it -- they were holding them.

MR. FISHER: What happened with the other three?

25X1A9a

[REDACTED] They were put in. ^{Two} ~~All three~~ of them were put in.

25X1A9a

[REDACTED] That was not under my jurisdiction. I don't know what happened with their particular cases.

MR. FISHER: Is there actual correspondence to him and responses from him?

25X1A9a

[REDACTED] No, not in that particular case. The four cases were [REDACTED]

25X1A9a

[REDACTED] was denied admission because he was past age 60. And the other two were put in.

MR. FISHER: And this was in 1968?

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25X1A9a [REDACTED] That he indicated that he didn't want to continue processing for admission. He indicated this to Stan -- he was probably

25X1A9a [REDACTED] Deputy.

25X1A9a [REDACTED] Did Stan initial this notation?

25X1A9a [REDACTED] I don't know who wrote it, really. This situation -- most of the time this fellow was under the jurisdiction of IOS and I'm PTOS. Stan could probably address himself to that better than I could.

25X1A6a MR. FISHER: He's over in the [REDACTED] office, isn't he?

25X1A9a [REDACTED] No, he's downstairs. I can get him up here.

MR. FISHER: Good. Let's get him. There's a phone right next door.

25X1A9a [REDACTED] There is also that standard notification -- no standard eligibility. He was told of not being eligible for admission.

25X1A9a [REDACTED] He would have had to retire in 1969 at the age of 60. He may have talked to me back then -- I've had several people talk to me about this type of thing.

MR. FISHER: ^{Three}~~Four~~ other people did apply and ^{two}~~three~~ did get in and one didn't get in because of the age.

25X1A9a [REDACTED] In the earlier memo to you dated 7 September of this year he does say --

25X1A9a MR. FISHER: His explanation of this was in his original appeal to me.

[REDACTED] Dated what?

MR. FISHER: This is the very recent one. September. When I [REDACTED] said he had ten days to appeal to the Director of Personnel.

25X1A9a (Mr. Fisher read [REDACTED] letter.)

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MR. FISHER: Then he begins to go into [REDACTED] his cover. Now here we come --

25X1A9a

(Mr. Fisher continuing to read [REDACTED] letter.)

Again, he's hitting this "always been a member of Agency field force and for more than four years now quite isolated --

25X1A9a

(Mr. Fisher continued reading [REDACTED] letter.)

The point we are trying to get at here -- he's obviously pleading isolation -- he's pleading lack of information. We are aware that other members of the [REDACTED] office have applied for and been accepted into the Agency Retirement System. One, [REDACTED] was not because he was past age 60.

25X1A6a

25X1A9a

25X1A9a

[REDACTED] appeared and was invited to address the Board.)

MR. FISHER: We were trying to zero in on his decision not to apply after the old famous [REDACTED] case. Security at one point said they would hold off on these others until they got a decision on this. Following that we did get three more and there is some indication that he made a decision not to apply. And that's what we are trying --

25X1A9a

25X1A9a

[REDACTED] As Chief of the Security Staff and Office of Special Projects, Brian was assigned to his present job [REDACTED] Early in 1969, I expect, he came down and I told him that the folks in the Retirement Division wanted to talk to him and he said, "Well, who do I get in contact with?" He said, "Is there any way I can avoid talking to them?" There was a general reluctance to confront the issue of retirement at the time. He did go down. I understand he was in it for a couple of days and I said, "Well, you better get in touch with these folks," and I never did get -- I was never faced with his sending any type of a memorandum requesting information on retirement. I can't recall that. If there was I'm not aware of it.

25X1A6a

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MR. FISHER: Can you identify the handwriting?

25X1A9a [REDACTED] That would probably be [REDACTED] 25X1A9a

25X1A9a [REDACTED] That's not mine, certainly. No, I can't identify it.

25X1A9a MR. FISHER: This is a memorandum for the Chief, Admin in Security,
obviously, attention: [REDACTED] and the subject is: [REDACTED] 25X1A9a
Appeal to be Designated as a Participant in the CIA Retirement System. And
it reads --

(Mr. Fisher read the memorandum.)

25X1A9a This is signed by [REDACTED] Special Assistant to the Director, [REDACTED] 25X1A8a
There is a little note on the bottom -- "Come around 3 January" - this
is November - "and will come by and discuss at that time."

25X1A9a [REDACTED] This would have been in reference to the period that
I'm talking about.

25X1A9a MR. FISHER: There is a note on top - "Per [REDACTED] 21 March
1969." Good Lord! That's quite some time later. Six months. Mr.
25X1A9a [REDACTED] has talked with Retirement people and has decided to drop application
for the time. So now about that time he's up to March and I assume realized
25X1A9a that if he applied then he'd be out in September. And this could very well be
[REDACTED] (indicating notation).

25X1A9a [REDACTED] I think so.

25X1A9a [REDACTED]
25X1A9a Well, it says, [REDACTED] You don't recall
the conversation?

25X1A9a [REDACTED] Just the conversation that I referred to before that said
he had been down here on TDY and it could very well be this period - that
March 1969 period. He said he had other matters to discuss -- he had a

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25X1A6a voucher problem that he had to resolve as a result of his transfer to [REDACTED] -
and at that time I recall saying, "Well, the Retirement folks want to talk
to you", and I referred him to the Personnel Office of OSP, who is [REDACTED] 25X1A9a

25X1A9a or [REDACTED] or something. I understood he had gone down to Rosslyn
to talk to the people.

25X1A9a [REDACTED] Is that notation accurate?

25X1A9a [REDACTED] Yes, I think it is, John. It's my recollection. He had
been down here to see about things and I think that I did refer him to Retirement.
It was my understanding that he did talk to the people in Retirement.

25X1A9a [REDACTED] Well, as I gathered, the thrust of that is he declined
to apply for CIARDS.

25X1A9a [REDACTED] I can't speak to that.

25X1A9a [REDACTED] Well, then, it isn't accurate.

25X1A9a [REDACTED] I can't testify to that. All I know is he talked with the
Retirement people.

25X1A9a [REDACTED] Does the note say that [REDACTED] said that also? 25X1A9a
25X1A9a

25X1A9a MR. FISHER: It just says, ' [REDACTED] It says, [REDACTED],

25X1A9a 20 March 1969, [REDACTED] has talked with Retirement people and has decided
to drop application for the time. "

25X1A9a [REDACTED] Well, that's a lot more specific than you have indicated,
Stan.

25X1A9a [REDACTED] Well, it doesn't say CIARDS or anything.

What else would he be applying for?

[REDACTED] I don't know about the Agency Retirement Board. He
was approaching age 60 at the time and to my knowledge he hadn't applied for

CIA Retirement. My recollection is that he went down to talk to the Retirement
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people and I cannot recall whether it was under Civil Service Retirement or CIA Retirement that he had discussed.

25X1A9a [REDACTED] Well, then it's interesting that he has never mentioned that period of time and having been denied the opportunity then to appeal and come on in.

25X1A6a

MR. FISHER: Here is a letter to the Special Agent in Charge, [REDACTED]

25X1A6a [REDACTED] Office.

(Mr. Fisher read this letter.)

So he obviously had warning. This is in terms of Civil Service.

25X1A9a [REDACTED] He claims that he didn't see that. And I called this to his attention.

MR. FISHER: They are rather unusual initials because he actually capitalizes the "F" and the "G". An unusual spelling. I had to correct the letter going out. Then it says -- I did want to just mention this. It's a 28 April 1966 review of certain security careerists designated as non-participants in the CIA Retirement Disability System -- "The following careerists who are stationed in our [REDACTED] Office have submitted requests that their designation as non-participants in the CIA Retirement System be reviewed." So obviously he was told, "you are not in," and he requested the review and that included

25X1A9a [REDACTED] They are explaining to him when the
25X1A9a decision is reached in the case of [REDACTED] we will be in a position to process additional requests.

(Mr. Fisher continued to read this.)

25X1A9a Apparently missing, although there is a copy here of the nomination and designation form, is an appeal by [REDACTED] to be put into the CIA System and then followed by the 1968 letter that I read to you -- reference [REDACTED] again to the subject's appeal. The other point that I think is significant is that the other three people on that list did apply to get in. And that ^{two} ~~three~~ out of the

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appealing the determination that he is not eligible to participate in the CIA Retirement System -- he is submitting that his whole life has been affected, etc. We have his letter here so he formally submitted his appeal. Security said, "We are going to hold up on all these appeals until the case 25X1A9a is settled."

25X1A9a

[REDACTED] What happened on appeal?

[REDACTED] That appeal never made its way to the Retirement Board.

MR. FISHER: No. What I'm trying to find, obviously, through all of this -- three of them went and somewhere along the line this man decided not to let his move. Now I'm getting a little late in the game. This is 1971.

25X1A9a

[REDACTED] I presume the other three were younger than him.

[REDACTED] No, one was over 60 and not put in.

[REDACTED]: There were three that did submit and two

were approved and one not approved.

25X1A9a

25X1A9a

25X1A6a

[REDACTED] is still in [REDACTED] -- about 57 years old.

25X1A9a

[REDACTED] On the basis of the same kind of service we are talking about?

MR. FISHER: We looked at each guy and some of them had overseas service and we are looking for qualifying service and some didn't have it. Well, Stan, I'd hoped that you had a very clear recollection of this. It does look like it fell between the cracks somehow. We never got him to sign something which says "stop my appeal" and I honestly don't know how it got stopped. Because he obviously had written one and it never came forward.

25X1A9a

[REDACTED] You know SPT word was that they wanted to see [REDACTED]

in Retirement and I said, "Brian, go down and see the folks in Retirement," and he went down and I really didn't get any results from that discussion except his basic frame of mind was "don't rock the boat and nobody will force me to retire."

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MR. FISHER: Do any of you gentlemen have any further questions for either Stan or Jim? Okay, fine. Thank you.

25X1A9a [REDACTED] left the meeting at this time.)

Since he apparently stopped by he should have checked this already. Checked the counselling file to see whether he actually stopped up over there and what transpired but -- Well, I admit some of this is assumption on my part - the fact that he has a signed appeal requesting that he be reconsidered for admission to CIARDS with all his argumentation, and that his appeal, along with others, ^{was} were held off, and subsequently the other three came forward and his didn't - there is a certain amount of presumptive evidence at least. Some action had to be taken on his part to stop it.

25X1A9a [REDACTED] He makes no mention of that in his latest correspondence.

MR. FISHER: He talks all around it. He is just [REDACTED] quoting the regulations. I don't want to go through all the pages he has written. It's ILLEGIB obvious he thinks even after he gets into CIARDS [REDACTED] he's entitled to an extension. And that age 65 is sort of what he's shooting ^{for} so it isn't as if he's saying, "Let me in and now I'll go."

25X1A9a [REDACTED] Harry, isn't it also at least a working assumption that the Board, having turned down the other guy at age 60, could do the same here? There is nothing significantly different in his case and the other guy's.

ILLEGIB

25X1A9a MR. FISHER: That's what I'm [REDACTED] looking for. On the [REDACTED] case there was a little stronger evidence. I'm not sure it's much stronger ILLEGIB than this. As a matter of fact [REDACTED] they're very similar. Well, this is all, so, in my opinion, so over-written -- I sort of question how much effort we have to give to analyzing all of his service in here. I don't know if you have all plowed through it. It's filled with some things that just have absolutely no bearing. Its ILLEGIB [REDACTED] got some incidents that are probably qualifying. But the fact that over a 15-year career he recalls some of the minutia in here would seem to indicate

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to me that there is a lot of time not spent on this kind of stuff. So he made
a reservation at a motel and reservations to eat at ^{restaurants} [REDACTED] -- to get ILLEGIB

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[REDACTED]

there. In total it doesn't strike me that it's five year's worth. But it could
be a difficult case for us to argue for a couple of hours and then come to the
conclusion that he's past age 60 and had every opportunity to get in.

25X1A9a

[REDACTED] Apparently his first briefing by (Calvin) Branch
Counseling
was in March of this year.

MR. FISHER: Nothing before that?

25X1A9a

[REDACTED] Nothing.

. . . Off the record . . .

25X1A9a

[REDACTED] Has our retirement at 60 been tested in court?

MR. FISHER: No. This is a possibility. He also is a lawyer --
has legal training.

25X1A9a

[REDACTED] Do you feel our position is vulnerable? A court test?

[REDACTED] It's not without doubt, honestly, Gordon. I think,
again, any time you go into court it does depend on the facts of the case. I
think if we were to, for example, to move in on a GS-4 clerk who sat in this
building his entire career -- I think that would be one thing. Whereas if we
moved in on a DDP type and who had all kinds of experiences and so forth --
that might be another thing. I just can't say because there are all kinds of
..... about no discrimination because of age. The law applicable to industry,

25X1A9a

[REDACTED] Presidential statements, and so forth. I honestly can't predict. Now in the
[REDACTED] 25X1A9a ILLEGIE
case it was a [REDACTED] clear-cut case in terms of procedure and every-
thing else. We could have taken our chances on it. I'm not quarreling with the
final decision.

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MR. FISHER: John can talk about this better than I can, but we tend to rest on the fact that our law has been interpreted in the past, and I think I quote, "The Director can fire for any reason [REDACTED] and/or for no reason." So that's fine. He said that. But this is X-years later. It seems to me they could say, fine, but let's be reasonable. That wasn't given to be used arbitrarily just when the Director felt like it or for certain reasons. He wouldn't use it to discriminate just for age.

ILLEGIB

25X1A9a

[REDACTED] ^{John,}
[REDACTED] ^{Jim,} do you have the same concern [REDACTED] about CIARDS' cases?

MR. FISHER: No, that's statute. The law says you go out by [REDACTED] age 60.

ILLEGIB

25X1A9a

[REDACTED] It's law and they buy the benefits as well as the disabilities.

MR. FISHER: And that very point is a good argument on the other. We get the penalty but no benefits. And I guess sooner or later we are going to have ^{it} the case.

*Conf. Serv.
what
60*

25X1A9a

[REDACTED] Harry, I guess you said you hadn't waded through all this --

MR. FISHER: I did. (Meaning he did read the material.)

25X1A9a

[REDACTED] We are talking about a period just under 11 years, I guess. That's the only period that any claim can be made.

MR. FISHER: The four years are out.

25X1A9a

[REDACTED] And by his own account I don't see how you can find months 60 [REDACTED] in those -- there are somewhat less than 11 years in this. Some isolated incident that involved some small unit of time, but not 50 percent of the time. It's hard to imagine that this could be parlayed into 50 percent of the --

ILLEGIB

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25X1A9a [REDACTED] I think the Board has to find some positive basis to recommend to the Director that he waive this 60-year requirement.

MR. FISHER: We don't -- I defer to you on this in the event that we are going all the way. I feel that we could turn this down on the basis of no qualifying service in which case the question of 60 to 62 has no bearing -- or you could say we don't even worry about it which might seem wrong because even if he was qualified he can't get in because of the 60/62 -- or we can say we don't think he's qualified and in addition even if he was we can't recommend him.

25X1A9a [REDACTED] I don't see the qualifying service. I hadn't even gone into the age factor. I don't want to wade through any more like that.

25X1A9a [REDACTED] I put the age factor aside and looked for the qualification.

MR. FISHER: I'm sure we all did this but I guess what I'm saying is, it eases the burden a little bit in terms of how much you strain to find qualifying service when you realize that you have got pretty good evidence that even if he ^{had qualifying service} (got in) he wouldn't make it because of the 60/62. Did you find anything?

ILLEGIB

25X1A9a [REDACTED] No, I didn't, Harry. One thing that bothers me is the other cases. In other words, two other cases from [REDACTED] were [REDACTED] accepted and if they are the same cases as this then I think we may have a problem.

25X1A9a [REDACTED] With a possible exception -- this is only something like 11 years. They may [REDACTED] have had 20 and 25 and probably some more.

ILLEGIB

25X1A9a [REDACTED]: Of the two that were approved, one had considerable overseas service. [REDACTED] I think spent an awful lot of time in actual investigations in [REDACTED] and continually over a long period of time.

25X1A9a [REDACTED] Well, he did, too.

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25X1A9a

MR. FISHER: [REDACTED] probably came closer to being parallel to this, but --

25X1A9a

[REDACTED] Well, you can look at that in detail.

25X1A9a

[REDACTED]: I would have to check. I don't know if [REDACTED] was doing this in a special period or not.

25X1A9a

[REDACTED] You mean the ~~(Lack)~~ case in the 1969 rule. Well, then, that wouldn't count.

25X1A9a

MR. FISHER: Charlie, I can't disagree with what you are saying, but even if [REDACTED] he is a bit similar to [REDACTED] I don't think that means that we have to thereafter make the same mistake.

25X1A9a

[REDACTED] You have to think in terms of going to court and that case being thrown up in your face as a similar case just like it. The same factors and so on.

MR. FISHER: But you stand on the fact that five men examined the details of one and found it qualifying. On this case we didn't. So, there is periods of service, too. You are down here to 11 years total out of which you have got to find five good years. You note the next one might have been 20 years of service. I tell you this. We had everything identified by time-frames and you may have found that, again, I'd have to get it out to recall it completely. You don't remember when it was considered do you?

25X1A9a

[REDACTED] No.

25X1A9a

MR. FISHER: He may have spent large periods of time with defectors and that type of thing that caused us to vote for it. On the [REDACTED] case we must have judged that four or five times.

25X1A9a

[REDACTED] All laid out in blocks of time. We had all that laid out.

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25X1A9a [REDACTED] Well, Harry, you turned me off once but I won't be turned off twice. I still say that from the standpoint of the record the fact that this man doesn't qualify on the face of it -- on the record -- in terms of the regulations requires a burden of extenuating circumstances about which there is no allegation even. That is, 62 -- he's not 60. Therefore, what is the justification for waiving?

25X1X8 MR. FISHER: If you went into court, which way would you prefer?
[REDACTED] -- I was more inclined to say we didn't find qualifying service. But in this case even had we found qualifying service he was past 62 and had every opportunity to apply. As a matter of fact ~~that~~ he even put an application in process -- an appeal in process -- as early as 1966 or 1967.

25X1A9a [REDACTED] Did this Board approve his extension to 62?

MR. FISHER: No. He didn't have 20 years for retirement so 62 was his retirement age.

25X1A9a [REDACTED] This is why you put the 60 rule in the regulations. You can't have your cake and eat it, too. Unless you can overcome that burden there is no case and there isn't an allegation of an extenuating circumstance here.

MR. FISHER: Do you prefer then sort of making the point first in the
ILLEGIB [REDACTED] documentation as to begin with this man is past 60 and therefore on the surface not eligible.

25X1A9a [REDACTED] I think that stands up in court automatically.

25X1A9a [REDACTED] Do it the same way we did [REDACTED] 25X1A9a

25X1A9a MR. FISHER: In [REDACTED] case did we address ourselves to his qualifying service first?

25X1A9a [REDACTED] No, I think the main thrust of the memo to him was that he had his cake --

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MR. FISHER: Well, do we lose anything by making both points?

25X1A9a

[REDACTED] No, I don't think so.

MR. FISHER: Do you feel we should make the first point and say that on that basis we don't even consider whether it's qualifying?

25X1A9a

[REDACTED] We have. I see nothing wrong with that. Furthermore, the Board, in trying to lay out the whole case, found a doubtful if at all any basis for even qualifying service.

MR. FISHER: Well, I think we have a recommendation that he be turned down.

25X1A9a

[REDACTED] I so move.

[REDACTED] Second.

MR. FISHER: If I understand the sense of the Board in this case, I think whatever we write let's get it up so I can run it by John. That we make the point first that he is past age 60, that the Board did pursue the fact that he had at one point started an appeal through, and that it was stopped and that we also, in considering the whole case, reviewed his records and didn't find it qualifying. So the two things together made it quite sure to be put down.

25X1A9a

[REDACTED] I think you could even say the record indicates that he stopped it.

ILLEGIB

25X1A

MR. FISHER: I think we should indicate three other members of the

25X1A9a

[REDACTED] That point worries me because your evidence for making the statement is very, very weak.

MR. FISHER: Ben, it may be. We have a signed appeal from him with an indication that it was tabled and with no further initiative on his part to pursue it.

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25X1A9a [REDACTED] Say he didn't pursue it rather than stopped it.

25X1A9a [REDACTED] You know the rule is age 60 and the burden is on the applicant to submit extenuating circumstances to warrant deviation from the rule. His case doesn't contain those extenuating circumstances, period.

MR. FISHER: There is an indication that he didn't pursue an appeal.

25X1A9a Now, again, you know I wish you -- there is a note on there, "[REDACTED]" - stop all this."

25X1A9a [REDACTED] There is a difference between "he didn't pursue it" and "he stopped it."

MR. FISHER: You can't prove he stopped it.

25X1A9a [REDACTED] We all suspect it but the evidence isn't clear.

MR. FISHER: He certainly didn't pursue it. I mention this because
25X1A6a of this isolation claim of his. The other boys [REDACTED] seem to be able to stay on target and surely they all talked about it. Let's see what you can come up with and Ben is with this, too.

25X1A9a [REDACTED] When we write up the type of service claimed -- I'm not trying to get out of any work -- but can we just say, "see attached memorandum?" I can't condense that thing.

MR. FISHER: Okay. Agreed.

End

25X1A9a [REDACTED] Can I get two voluntary retirements approved?

MR. FISHER: Okay, fine.

25X1A9a [REDACTED] I have a voluntary retirement on [REDACTED] 25X1A9a

25X1A9a 31 October 1971; and an involuntary retirement case on [REDACTED]
31 October 1971.

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MR. FISHER: I so move and we all agree. Fine.

. . . The meeting adjourned at 3:00 p.m. . . .

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